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Security Council

Sixty-fifth year

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6440th meeting

Thursday, 9 December 2010, 3 p.m.
New York

President	Ms. Rice	(United States of America)
Members	Austria	Mr. Bühler
	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mr. Moretti
	China	Mr. Wang Min
	France	Mr. Briens
	Gabon	Mr. Issoze-Ngondet
	Japan	Mr. Nishida
	Lebanon	Mr. Salam
	Mexico	Mr. Heller
	Nigeria	Mr. Onemola
	Russian Federation	Mr. Dolgov
	Turkey	Mr. Cornian
	Uganda	Mr. Ruganda
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant

Agenda

Reports of the Secretary-General on the Sudan

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[0 68333 (E)]

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The meeting was called to order at 3.15 p.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President: On behalf of the Security Council, I extend an invitation under rule 39 to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I now give the floor to Mr. Moreno-Ocampo.

Mr. Moreno-Ocampo: I thank the Security Council for this opportunity to present the twelfth briefing on the work of the International Criminal Court on the situation in Darfur.

I would like to update the Council on the Pre-Trial Chamber I decision to issue a second arrest warrant for President Al-Bashir for three charges of genocide, including genocide by killing, in accordance with article 6 (a) of the Rome Statute; genocide by causing serious bodily or mental harm, through rapes and the sowing of fear among people in villages and people in camps for displaced persons, in accordance with article 6 (b); and genocide by deliberately inflicting, on the Fur, Masalit and Zaghawa groups, conditions of life calculated to bring about the groups' physical destruction, in accordance with article 6 (c).

I would also like to brief the Council on the hearing concluded yesterday at the seat of the Court in The Hague to confirm the charges against the rebel commanders who led the attacks against African Union peacekeepers at their base in Haskanita. That was the most serious attack against peacekeepers in Darfur. For the Office of the Prosecutor, crimes against peacekeepers are some of the most serious crimes under its jurisdiction. They affect the lives of millions of civilians under peacekeeper protection.

I would also like to confirm that the Government of the Sudan is not cooperating with the Court, as the Pre-Trial Chamber informed the Council, and is conducting no national proceedings against those responsible for the crimes committed. Since 2005, Sudanese authorities have consistently promised to do justice, creating mechanisms such as special courts and prosecutors, while consistently and deliberately protecting those who commit the crimes. President Al-Bashir, in accordance with the Pre-Trial Chamber's finding, issued the criminal orders to attack civilians and destroy their communities. President Al-Bashir does not want to investigate those who are following his orders.

In terms of cooperation on arrests, the Rome Statute States parties are firmly insisting on the need to respect the Court's decisions. The presence of many representatives of States parties in the Chamber today underscores their consistent support for an end to impunity for these crimes.

The situation in Darfur is not just a humanitarian crisis; it is a systematic attack against the civilian population. The situation in Darfur is a genocide — an ongoing genocide. As mentioned in my written report, hundreds of civilians have been killed just in the past six months. Thousands have been forcibly displaced, and more than 2.5 million are suffering a subtle form of genocide — genocide by rape and fear. Rape and fear are silent weapons, below the radar of the peacekeepers and unstoppable by the humanitarian organizations. And this continues. The Secretary-General's report of 14 July (S/2010/382) notes that sexual and gender-based violence continues and is generally perpetrated by men in military uniform.

I appreciate the commitment to stopping crimes against women and children, as expressed by the Security Council in its meeting on 26 October (see S/PV.6411) commemorating the adoption of resolution 1325 (2000). In its presidential statement contained in document S/PRST/2010/22, the Security Council noted with grave concern that women and girls are disproportionately affected by conflict, and that women's participation in peace processes remains too low. Resolution 1325 (2000) should be implemented in Darfur.

In relation to the Haskanita attack, yesterday's confirmation hearing at the seat of the Court in The Hague was unique. The rebel commanders have accepted that there is sufficient evidence to confirm the charges and go to trial. In any case, the Chamber has to make a decision by 17 February 2011. The Haskanita case before the judges is about how those two commanders led more than 1,000 troops in carrying out a violent attack on the African Union Mission in Sudan (AMIS) base in Haskanita, killing 12 peacekeepers and injuring eight others. They also destroyed the camp and looted vehicles, fuel and money. The attack has

resulted in war crimes charges against them for violence, murder and attempted murder of AMIS personnel and article 8, intentionally directing attacks against personnel in a peacekeeping mission, and pillaging. My Office expects the charges against the rebel commanders to be confirmed and that the trial will begin in 2011.

In my personal view, during the trial the commanders will challenge the neutrality of the African Union peacekeepers and will therefore argue that the Haskanita base constituted a legitimate military target. The Office of the Prosecutor will maintain that the African Union peacekeepers were neutral and that the attack was illegal, constituting war crimes. It is important to highlight that the commanders are appearing voluntarily before the Court and are willing to face the risk of going to prison in order to claim that President Al-Bashir also has to appear before the judges and respect the decisions of the International Criminal Court.

In relation to national proceedings, I would like to highlight the report of the African Union High-level Panel on Darfur, which cites the

> "current major obstacles to justice and reconciliation in Darfur [as] the absence of political will, denial of what happened and is happening in Darfur, as well as obscuring of the truth; war, fear and insecurity; ... poor policing and enforcement of law and order; impunity for the crimes committed in Darfur".

These are the words of the African Union High-level Panel on Darfur.

Confirming that, the most recent cover-up statement promising justice for Darfuris came on 27 September, when a Special Prosecutor for Darfur, Mr. Nimr Mohamed, visited Darfur and announced his intention to begin investigating the 2 September attack on Tabra, which had resulted in dozens of people reportedly being killed. However, two weeks later, in mid-October, Prosecutor Mohamed was released from his position and replaced by Abdel Dayim Zomrawi, Under-Secretary in the Ministry of Justice. Since then, no progress has been reported on the Tabra investigation or any other. Until the orders to the Sudanese Armed Forces to commit crimes in Darfur cease, there is no possibility of justice in Darfur.

Let me conclude. The Security Council referred the Darfur situation to the International Criminal Court in 2005. It issued a presidential statement in 2008 (S/PRST/2008/21) urging the Government of the Sudan to cooperate with the Court. It recently issued a presidential statement (S/PRST/2010/24) in which it recalled the "importance it attaches to an end to impunity, and to justice for crimes committed in Darfur".

My duty was to investigate impartially the worst crimes committed in Darfur and to present cases against those most responsible. We presented our evidence to the judges; the Court issued arrest warrants against a militia Janjaweed leader who reported to the then Minister of State for the Interior, who reported in turn to President Al-Bashir. The charges against President Al-Bashir include crimes against humanity, war crimes and genocide. The arrest warrant will not go away. The legal work is done, but the crimes are ongoing. President Al-Bashir and his supporters are making enormous efforts to cover up the crimes and divert the attention of the international community by announcing new strategies and new efforts for justice.

The Court also investigated the worst crimes committed by the rebel forces against peacekeepers. As I have said, the trial is coming. The Court will fulfil its judicial mandate. The whereabouts of the three fugitives are known. Ahmed Haroun can be found in his governor's residence in Southern Kordofan.

States parties are fulfilling their duties and legal obligations, but additionally they are adopting policies to sever any contact with individuals sought by the Court. President Al-Bashir was excluded from the recent European Union-African Union summit. States parties are ensuring respect for the legal limits. Regional organizations, such as the League of Arab States and African Union, are crucial to ensuring justice, stopping the crimes, alleviating the humanitarian situation and providing stability to the Sudan. A proper dialogue with them is crucial to achieving these goals.

The implementation of the Court's decisions and the execution of the arrest warrants are in the hands of the Security Council.

The President: I thank Prosecutor Moreno-Ocampo for his briefing.

In accordance with the understanding reached in the Council's prior consultations, I now invite Council members to continue our discussion on the subject in a private meeting.

The meeting rose at 5.30 p.m.